

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
November 12, 2003

ITEM: 16

SUBJECT: Administrative Civil Liability against Pioneer Builders for violations of the State Board's General Construction Storm Water Permit Order No. 99-08-DWQ, San Diego Region Basin Plan, and Cleanup and Abatement Order No. R9-2003-0158 at the Castillo del Mar subdivision in Dana Point, California. If agreement on settlement of this matter is not reached prior to the meeting date the Regional Board may deliberate and decide on assessment of civil liability based on testimony from the August 13, 2003 hearing. *The Public Comment period is closed on this item.* (Tentative Order No. R9-2003-0301) (*Rebecca Stewart*)

DISCUSSION: The Regional Board held a public hearing on this matter on August 13, 2003. After closing the hearing and prior to beginning deliberation on the assessment of liability, the Regional Board members provided an opportunity for Pioneer Builders to settle the matter. Settlement negotiations have been ongoing with Pioneer Builders since the conclusion of the August 13 public hearing. Pioneer Builders has proposed to settle the matter for \$16,550. This figure is based on the Regional Board dropping the assessment of liability for Allegation No. 1 (causing pollution, contamination, and nuisance from filling the onsite wetland) and Allegation No. 3 (incomplete 401 certification application). In addition, the proposed settlement offer requests reducing the number of days of violation from 32 days to 15 days for failure to implement adequate erosion and sediment control best management practices (BMPs) (Allegation No. 2) and reducing the per day assessment of \$100 to \$50 per day for Allegation No. 4 (failure to file a Notice of Intent).

Pioneer Builders has been notified that the Executive Officer would not support the acceptance of the settlement offer. As a result, this matter is being returned to the

Regional Board for deliberation or further direction. To assist the Regional Board, the following documents from the August 13 Regional Board meeting have been included in this agenda package: Tentative Order No. R9-2003-0301 (Document No. 1), Complaint No. R9-2003-0270 (Document No. 2), Technical supporting Complaint No. R9-2003-0270 (Document No. 3), and Pioneer Builders Timeline (Document No. 4).

Additional copies of written material provided by Pioneer Builders and the Dana Point Wetlands Protection Association for the August 13, 2003 public hearing are not available for inclusion in this mailing. File copies of these materials will be made available to the Regional Board at the meeting if individuals no longer have the previously distributed documents.

SUPPORTING
DOCUMENTS:

1. Tentative ACL Order No. R9-2003-0301.
2. Complaint No. R9-2003-270.
3. Technical Analysis, Proposed Administrative Civil Liability Contained in Complaint No. R9-2003-270.
4. Summary of Minimum and Maximum Liability.
5. Pioneer Builders Timeline.

RECOMMENDATION:

The adoption of tentative Order No. R9-2003-0301 is recommended.